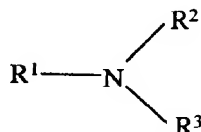


Remarks

Reconsideration of the application in view of the above amendments and the following remarks is requested. Claims 1-3 and 5-7 are in this case. Claim 1 has been amended. In Claim 1, the surfactants in group a) had previously been limited to preferred alkoxyated alkylamines or alkyletheramines by deleting C₁ – C₄ alkyl groups from the definition of R² and R³ and by deleting “~~alkylamine and alkylether~~”amine as modifiers to amine surfactants. Claim 1 has now been amended by reinserting the “alkylether”amine modifier to amine surfactants.

Claim 1 has been rejected under 35 U.S.C. § 112, first paragraph because the previous deletion of alkylamine and alkyletheramine broadened the scope of Claim 1. The Applicants respectfully disagree. The amine surfactants of Claim 1, whether they be called alkoxyated alkylamines, alkyletheramines or just plain amines, are defined by the chemical formula



in which R¹ is a C₈ - C₂₄ straight or branched chain, saturated or unsaturated hydrocarbyl group, optionally interrupted by one or more ether linkages, and R² and R³ are independently polyoxyalkylene chains having in total 2 to about 22 alkylene oxide units. The deletion of C₁ – C₄ alkyl groups from the definition of R² and R³ did not broaden the definition of amine surfactants but narrowed it and required deletion of the descriptor “alkylamine”. Nevertheless, in order to facilitate the prosecution of this application, the term “alkylether” has been reinserted as a descriptor for amine surfactants.

Claims 1-3 and 6-7 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over US 6,030,923 (Okano *et al.*) in view of US 4,159,901 (Beestman *et al.*).

The present invention concerns herbicidal concentrate compositions consisting essentially of (a) water, (b) glyphosate, predominantly in the form of the monomethylamine or the dimethylamine salt, in solution in the water in an amount of

greater than about 350 grams of acid equivalent per liter of the composition, and (c) at least one surfactant in a total amount of about 20 to about 200 grams per liter of the composition. The surfactant is chosen from the list a) through h).

Okano *et al.* disclose liquid agricultural chemical compositions comprising (1) a water soluble agricultural chemical, including the monomethylamine or the dimethylamine salts of glyphosate (Table 3), (2) a quaternary surfactant and, most importantly, (3) an acid salt, e.g., a hydrochloride salt, of an alkylamine $\text{NR}^3\text{R}^4\text{R}^5$ wherein R^3 is a $\text{C}_4\text{-C}_{18}$ alkyl or alkenyl group and R^4 and R^5 are independently H, CH_3 or CH_2CH_3 . The acid salt of the alkylamine (3) is **essential** to impart stability to the composition.

Beestman *et al.* disclose corrosion inhibited compositions of glyphosate salts in combination with various surfactants. In addition, Beestman *et al.* **requires** the presence of a thio compound as a corrosion inhibitor. While Beestman *et al.* mentions the di(methylamine) and the di(dimethylamine) salts of glyphosate among the dozens of glyphosate derivatives disclosed, it does not specifically disclose the mono(methylamine) or the mono(dimethylamine) salts of the present invention. All examples are limited to the monoisopropylamine salt.

The combination of Okano *et al.* and Beestman *et al.* provides a glyphosate composition containing (1) a water soluble agricultural chemical, including the monomethylamine or the dimethylamine salts of glyphosate, (2) a quaternary surfactant, a (3) an acid salt, e.g., a hydrochloride salt, of an alkylamine, and (4) a thio compound as a corrosion inhibitor.

The present invention lacks the required acid salt of an alkylamine (3) of Okano *et al.* and the required thio compound corrosion inhibitor (4) of Beestman *et al.* Thus the combination of Okano *et al.* and Beestman *et al.* does not provide a *prima facie* case of obviousness. The Examiner cannot use impermissible hindsight to pick and choose only selected portions of the cited references.

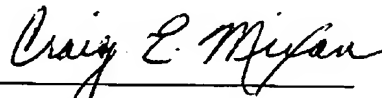
Even if a *prima facie* case of obviousness was presented, the selection of the monomethylamine and the dimethylamine salts of glyphosate in the present compositions has exhibited unexpected benefits compared to the prior art. Tables 9 and 10 illustrate the superior and unexpected efficacy respectively of the high strength MMA salt formulation on weeds in general and lambsquarter in particular.

The Examiner suggest that one skilled in the art would be motivated to combine the teachings of Okano *et al.* with those of Beestman *et al.* in order to create a concentrated solution to maximize the treatment of plants. But the purpose of Beestman *et al.* is to inhibit the corrosion of metal surfaces contacted by aqueous solutions of glyphosate salts while the purpose of Okano *et al.* is to increase the stability of liquid formulations of water soluble agricultural chemicals. In order to achieve these purposes, Beestman *et al.* requires the presence of a thio compound as a corrosion inhibitor and Okano *et al.* requires an acid salt of the alkylamine to impart stability. Neither is directed to creating a concentrated solution to maximize the treatment of plants.

The Examiner acknowledges that the phrase "consisting essentially of" allows for the inclusion of elements that do not materially affect the basic and novel characteristics of the claimed invention. The Examiner implies that the required acid salt of an alkylamine (3) of Okano *et al.* and the required thio compound corrosion inhibitor (4) of Beestman *et al.* do not affect the basic and novel characteristics of the claimed composition. This is clearly not so. In fact, according to Okano *et al.*, without the stabilizing acid salt of an alkylamine, the compositions were unstable and could not be evaluated.

In view of the above amendments and remarks, the application and claims comply with the requirements of 35 U.S.C. § 112, first paragraph and 35 U.S.C. § 103(a). Reconsideration of this application and its early allowance are respectfully requested.

Respectfully submitted,



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